

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

D-1 Kenneth Claude Smith

D-2 Jaelyn Jamar Smith

D-3 Troy Duane Lowery

Case: 2:21-mj-30015

Assigned To : Unassigned

Assign. Date : 1/12/2021

CMP: SEALED MATTER (MAW)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Dec. 10, 11, and 28, 2020 and Jan. 4, 2021 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

*Code Section**Offense Description*

(D-1 only) 18 USC § 922(n)
(D-1 only) 18 USC § 922(a)(1)(A)
(D-2 only) 18 USC § 922(a)(6)
(D-3 only) 18 USC § 922(g)(1)

Receipt of a firearm by a person under indictment
Engaging in the business of dealing firearms without a license
Making a false statement during the acquisition of a firearm
Felon in possession of a firearm

This criminal complaint is based on these facts:
see attached affidavit.

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: January 12, 2021

City and state: Detroit, Michigan

Danielle Stefanovski
Complainant's signature

Danielle Stefanovski, Special Agent (ATF)
Printed name and title

Elizabeth A. Stafford
Judge's signature

Hon. Elizabeth A. Stafford, United States Magistrate Judge
Printed name and title

AFFIDAVIT

I, Danielle Stefanovski, being first duly sworn, hereby depose and state as follows:

I. INTRODUCTION AND AGENT BACKGROUND

1. I have been employed as a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) since March of 2018. I am an “investigative or law enforcement officer of the United States” within the meaning of 18 U.S.C § 2510(7), and I am empowered by law to conduct investigations and make arrests for criminal offenses enumerated under federal law.

2. Prior to becoming a Special Agent with ATF, I was a Special Agent with the United States Secret Service. I have had extensive law enforcement training, including the Criminal Investigator Training Program at the Federal Law Enforcement Training Center, USSS Special Agent Training Program in Beltsville, Maryland, and ATF Special Agent Basic Training in Glynco, Georgia. I also have a Bachelor of Business Administration from the University of Michigan.

3. During my employment with ATF, I have participated in numerous criminal investigations focused on firearms, firearms traffickers, armed drug traffickers and criminal street gangs. During said employment, I have utilized a variety of investigative techniques and resources, including physical and electronic surveillance, undercover and various types of informants and cooperating sources.

4. The facts set forth herein include my personal knowledge and/or information from other law enforcement officers. I have not included each and every fact known to law enforcement concerning this investigation; rather, I have set forth only the facts necessary to establish probable cause Kenneth Claude SMITH, Jaelyn Jamar SMITH, and Troy Duane LOWERY violated federal laws as outlined below.

II. DEFENDANTS

5. I am investigating Kenneth Claude SMITH (XX/XX/2000), Jaelyn Jamar SMITH (XX/XX/1998), and Troy Duane LOWERY (XX/XX/1992) for violations of federal firearms laws. This investigation consists of four undercover transactions that involved the purchase of five firearms.

6. As detailed below, probable cause exists that Kenneth SMITH violated:

- a. 18 U.S.C. § 922(n) – Receipt of a Firearm by a Person under Indictment; and
- b. 18 U.S.C. § 922(a)(1)(A) – Engaging in the Business of Dealing Firearms Without a License.

7. I reviewed a Computerized Criminal History (“CCH”) for Kenneth SMITH, which showed that Kenneth SMITH was sentenced to three years’ probation under the provisions of the Holmes Youthful Trainee Act (“HYTA”) for

the following felony offenses:

- a. March 2018 – Felony Unarmed Robbery; and
- b. March 2018 – Felony – Weapons – Felony Firearm.

8. Kenneth SMITH is on probation under the provisions of HYTA and has been since March 2018. As a result, Kenneth SMITH is prohibited from receiving firearms and has been prohibited since March of 2018.

9. Kenneth SMITH does not possess a federal firearms license (FFL) and cannot engage in the business of selling firearms.

10. Probable cause exists that Jaelyn SMITH violated 18 U.S.C. § 922(a)(6) - Making a False Statement During the Acquisition of a Firearm. Jaelyn SMITH has no prior felony convictions.

11. Probable cause exists that Troy LOWERY violated 18 U.S.C. § 922(g)(1) – felon in possession of a firearm.

12. Troy LOWERY, is currently on parole and was convicted of the following felony offenses:

- a. 2015- Felony Robbery; and
- b. 2017- Felony Theft.

III. PROBABLE CAUSE

13. During the month of December 2020, I reviewed social media posts associated with the Instagram (IG) account “72kennypros” (believed by law enforcement to be Kenneth SMITH’s IG account). I reviewed several posts which

contained images of suspected firearms. In one post, an individual believed to be Kenneth SMITH (his face was not visible in the post) possessed a Glock, model 19, 9mm semi-automatic pistol (Firearm One). The serial number was visible in the post. I queried the serial number and learned that Firearm One was reported stolen to law enforcement in August of 2018. Kenneth SMITH was already under HYTA probation when this firearm was reported stolen. Therefore, when Kenneth SMITH received the firearm, he was on HYTA, under indictment, and prohibited from obtaining and receiving firearms.

14. On December 9, 2020, Special Agent Rees, acting in an undercover capacity, contacted Kenneth SMITH using Instagram Messages. Thereafter, Kenneth SMITH contacted Special Agent Rees utilizing cell phone number 810-553-5684. The 5684 phone number is listed with the Michigan Department of Corrections as Kenneth SMITH's phone number. On the call, Kenneth SMITH told Special Agent Rees that he was willing to sell Firearm One.

A. Transaction One - Undercover Purchase of Firearm Two

15. On December 10, 2020, at approximately 2:56 p.m., Kenneth SMITH advised Special Agent Rees that he had a different firearm (Firearm Two), other than the stolen Glock (Firearm One), available for purchase. Special Agent Rees agreed to purchase Firearm Two.

16. At approximately 3:26 p.m., SA Rees placed a phone call to Kenneth SMITH and agreed to meet Kenneth SMITH at the Galaxy Coney Island, located at 13611 Grand River Ave, Detroit, to purchase Firearm Two.

17. At approximately 3:30 p.m., SA Rees and SA Bowling arrived and parked at the Galaxy Coney Island. Kenneth SMITH called SA Rees and advised that he would arrive in a black truck. At approximately 3:47 p.m., Kenneth SMITH arrived in a black Range Rover. The Range Rover parked north of the undercover vehicle. Kenneth SMITH opened and exited the rear passenger side door of the Range Rover and walked to SAs Rees and Bowling. SA Bowling exited the undercover vehicle to allow Kenneth SMITH to sit in the front passenger seat next to SA Rees. SA Bowling observed the black Range Rover to be occupied by at least three individuals.

18. In the undercover vehicle, Kenneth SMITH handed SA Rees Firearm Two; one tan Glock, 19 X, 9mm, semi-automatic firearm, bearing serial number: BPMG743. Firearm Two was loaded with one live round of 9mm ammunition in the chamber plus an additional 28 live rounds of 9mm ammunition in an extended magazine. SA Rees paid Kenneth SMITH \$1,350.00 in pre-recorded government funds. During the transaction, SA Rees inquired about purchasing additional firearms. Kenneth SMITH indicated he could sell SA Rees more firearms. This concluded the first undercover transaction with Kenneth SMITH.

19. A law enforcement query was conducted on Firearm Two. Firearm Two was originally purchased and registered to a female on August 13, 2020, over two years after Kenneth SMITH was placed on HYTA in March of 2018. Therefore, when Kenneth SMITH received the firearm, he was on HYTA, under indictment, and prohibited from obtaining and receiving firearms. The firearm was not reported stolen to law enforcement. A query of a law enforcement database did not show a familial connection or a common address between the female registered owner and Kenneth SMITH.

B. Transaction Two - Undercover Purchase of Firearm Three

20. On December 11, 2020, a series of phone calls and text messages were made between SA Rees and Kenneth SMITH, utilizing cellphone number 810-553-5684, to arrange the purchase of a firearm (Firearm Three). At approximately 12:32 p.m., SA Rees agreed to purchase Firearm Three; a Glock, 29, 10mm semi-automatic pistol. During this conversation, Kenneth SMITH indicated he needed the price to be \$1,600.00 to make money. At approximately 12:46 p.m., Kenneth SMITH advised SA Rees he was on his way to pick up Firearm Three.

21. At approximately 1:59 p.m., SA Rees called Kenneth SMITH and they agreed to meet at the Galaxy Coney Island in Detroit.

22. At approximately 2:22 p.m., SA Rees and SA Bowling arrived and parked at the Galaxy Coney Island. At approximately 2:23 p.m., Kenneth SMITH arrived at the Coney Island driving a white 2017 Chevrolet Equinox. The vehicle backed in and parked north of the undercover vehicle. A subject, later identified as Jaelyn SMITH, opened the passenger side door. SA Bowling exited the undercover vehicle to allow Jaelyn SMITH to sit with SA Rees in his undercover vehicle.

23. At approximately 2:25 p.m., Jaelyn SMITH handed SA Rees Firearm Three bearing serial number BRZK310. SA Rees also received three 10mm magazines and miscellaneous gun parts and accessories. SA Rees gave \$1,600.00 in pre-recorded government funds to Jaelyn SMITH. Jaelyn SMITH counted some of the pre-recorded government funds then entered the white Equinox and handed the funds to Kenneth SMITH to count.

24. During the transaction, SA Bowling observed a firearm box and AK-style pistol inside the white Equinox. Jaelyn SMITH offered to sell the AK-style pistol for \$3,000.00. Jaelyn SMITH offered to sell a Glock, 48, 9mm, semi-automatic pistol, previously discussed between SA Rees and Kenneth SMITH. Jaelyn SMITH advised he would call SA Rees. This concluded the undercover transaction with Jaelyn SMITH and Kenneth SMITH.

25. After SA Rees left the Galaxy Coney Island, he received a call from cell phone number 920-545-9596, a phone number connected to Jaelyn SMITH. During the call, SA Rees arranged to purchase the Glock, 48, 9mm. Jaelyn SMITH advised SA Rees that he would hold the AK-style pistol for him to purchase at a later date.

26. Investigative Research Specialist (IRS) Justin Borst provided SA Rees and SA Bowling with a photograph of the individual associated with cell phone number 920-545-9596. SA Rees and SA Bowling positively identified Jaelyn SMITH as the individual who sold SA Rees Firearm Three.

27. Following the undercover purchase, Kenneth SMITH and Jaelyn SMITH were surveilled to Kenneth SMITH's residence. Kenneth SMITH and Jaelyn SMITH were observed entering and exiting the residence, carrying suspected bags and suspected firearms boxes. Law enforcement observed Kenneth SMITH appear to key into the front door of the residence.

28. An ATF Firearms Trace indicated that Firearm Three was purchased on December 11, 2020, by Jaelyn SMITH at Action Impact, located at 25992 W. 8 Mile Road, in Southfield, Michigan. This was the same day Jaelyn SMITH sold Firearm Three to SA Rees. Information obtained from Action Impact revealed that Firearm Three was sold to Jaelyn Smith between approximately 12:40 p.m.

and 1:27 p.m., minutes *after* SA Rees agreed to purchase Firearm Three. Jaelyn SMITH sold Firearm Three to SA Rees approximately one hour later.

C. Transaction Three - Undercover Purchase of Firearm Four

29. On December 28, 2020, at approximately 1:42 p.m., SA Rees and SA Jacobs, acting in an undercover capacity, conducted an undercover purchase of a firearm from Kenneth SMITH in the parking lot of the Galaxy Coney Island.

30. Prior to December 28, 2020, a series of phone calls and text messages were made between SA Rees and Kenneth SMITH, utilizing cellphone number 810-553-5684, to arrange the purchase. These messages included a video sent by Kenneth SMITH to SA Rees on December 26, 2020. The video depicted Firearm Four; a Smith & Wesson, M&P, 9mm caliber, semi-automatic firearm, with an attached light and high capacity 50 round drum extended magazine. SA Rees agreed to purchase Firearm Four for \$1,200.00.

31. Approximately 11:22 a.m., SA Rees received a phone call from Kenneth SMITH, who directed SA Rees to meet at the Galaxy Coney Island at 1:30 p.m.

32. At approximately 1:30 p.m., SA Rees and SA Jacobs arrived and parked at the Galaxy Coney Island. At approximately 1:41 p.m., Kenneth SMITH arrived driving the same white Chevrolet Equinox. The vehicle backed in and parked north of the undercover vehicle.

33. Kenneth SMITH approached the undercover vehicle and handed SA Rees Firearm Four bearing serial number JEM5476, loaded with one live round of 9mm ammunition in the chamber, and an additional 34 live rounds of 9mm ammunition in a high capacity drum magazine. SA Rees gave Kenneth SMITH \$1,200.00 in pre-recorded government funds. SA Rees and Kenneth SMITH discussed purchasing additional firearms. Kenneth SMITH indicated he could sell SA Rees additional firearms. This concluded the undercover transaction with Kenneth SMITH.

34. Following the transaction, constant surveillance was maintained as Kenneth SMITH departed the Galaxy Coney Island and traveled directly to his residence. Officers observed Kenneth SMITH key his way into the front door of the residence.

35. A law enforcement query was conducted on Firearm Four. Firearm Four was originally purchased and registered to a male on September 30, 2020. Firearm Four was not reported stolen to law enforcement. However, a query of a law enforcement database did not show a familial connection or a common address between the registered owner of Firearm Four and Kenneth SMITH.

D. Transaction Four - Undercover Purchase of Firearms One and Five

36. On January 4, 2021, at approximately 1:13 p.m., SA Rees and SA Bowling, acting in an undercover capacity, conducted an undercover purchase of

two firearms from Kenneth SMITH in the parking lot of a CVS located at 13580 Grand River Ave, Detroit.

37. Between December 31, 2020 and January 4, 2021, a series of phone calls and text messages were made between SA Rees and Kenneth SMITH, utilizing cellphone number 810-553-5684, in order to arrange the purchase of two firearms. During these calls, Kenneth SMITH indicated he had to obtain one of the firearms, Firearm One, from another individual.

38. Prior to the purchase, fixed surveillance was established at Kevin SMITH's residence. At approximately 12:39 p.m., DPD TFO Rutledge observed the white Chevrolet Equinox, driven by an unknown black female, arrive at the residence. TFO Rutledge observed Kenneth SMITH exit the residence and enter the vehicle. Constant surveillance was maintained as the vehicle traveled directly to CVS, located at 13580 Grand River Ave, Detroit. Seconds later, a red 2013 Nissan arrived and parked next to the white Equinox. The driver of the red Nissan, a black male, later identified as Troy LOWERY, a convicted felon currently on parole, exited the vehicle and meet with Kenneth SMITH at the passenger side of the white Equinox. After meeting with Kenneth SMITH, LOWERY returned to and entered the red Nissan.

39. At approximately 1:13 p.m., undercover agents arrived and parked at the CVS. Undercover agents observed Kenneth SMITH exit the front passenger seat of the white Equinox.

40. Kenneth SMITH approached the undercover vehicle and handed an undercover agent two firearms. The first was Firearm One (the Glock, 19, 9mm, semi-automatic pistol, bearing serial number ZTE441 original posted on Kenneth SMITH's IG page). The second was Firearm Five; a Smith & Wesson, M&P Shield, 9mm, semi-automatic pistol, bearing serial number JDP1878. Firearm Five was loaded with one live round of 9mm ammunition in the chamber and an additional eight live rounds of 9mm ammunition in a magazine. Kenneth SMITH was given \$2,500.00 in pre-recorded government funds.

41. Kenneth SMITH told the undercover agents that he had a supplier capable of purchasing firearms directly from a dealer with a FFL. Kenneth SMITH said that Firearm Three (the transaction that involved Jaelyn SMITH) had been purchased directly from the store.

42. Kenneth SMITH exited the undercover vehicle and met with LOWERY, at the driver side window of the red Nissan. The undercover agents departed the scene.

43. The red Nissan was surveilled to Meijer, located at 13000 Middlebelt Road, in Livonia. A few minutes later, Livonia Police conducted a traffic stop on the red Nissan. LOWERY was the driver of the vehicle.

44. On January 4, 2021, the day of Transaction Four, Kenneth SMITH's cell phone records showed that Kenneth SMITH's phone contacted a phone number registered to LOWERY multiple times. The calls between Kenneth SMITH and LOWERY took place immediately after Kenneth SMITH spoke to SA Rees, on January 4, 2021, about purchasing additional firearms. I believe LOWERY supplied at least one of the firearms purchased by undercover agents on January 4, 2021.

E. Further Investigation

45. A law enforcement query was conducted on Firearm One and Firearm Five purchased by undercover agents during Transaction Four. Both firearms were reported stolen to law enforcement while Kenneth SMITH was under HYTA probation and prohibited from obtaining and receiving firearms.

46. Jalen SMITH purchased Firearm Three from Action Impact, a FFL, on December 11, 2020. Approximately one hour later, Jalen SMITH and Kenneth SMITH sold Firearm Three to SA Rees. When Jalen SMITH purchased Firearm Three, he completed an ATF Form 4473. On the Form 4473, he indicated that he was the actual buyer of Firearm Three and not acquiring the firearm on behalf of

another person. He subsequently signed the Form 4473 attesting to the truthfulness of his statement.

47. Jaelyn SMITH purchased four additional firearms (not including Firearm Three) from July 2020 through December 2020. Two of these firearms were recovered through law enforcement traffic stops and two firearms were recovered through criminal investigations. Based on the facts provided above, I believe Jaelyn SMITH engaged in several acts of straw purchasing firearms. He purchased the firearms with the intent to sell them to other individuals despite attesting that he was purchasing the firearms for himself.

48. All the aforementioned firearms were manufactured outside the state of Michigan and affected interstate and/or foreign commerce.

IV. CONCLUSION

49. Based on the facts above, probable cause exists that Kenneth SMITH violated 18 U.S.C. § 922(n), receipt of a firearm by a person under indictment. Kenneth SMITH received four firearms while under indictment, on HYTA probation, and was prohibited from obtaining and receiving firearms. These firearms include Firearms Two (Transaction One), Four (Transaction Three); and One and Five (Transaction Four).

50. Probable cause exists that Kenneth SMITH violated 18 U.S.C. § 922(a)(1)(A), engaging in the business of dealing firearms without a license. Kenneth SMITH sold five firearms to undercover officers/agents.

51. Probable cause exists that Jaelyn SMITH violated 18 U.S.C. § 922(a)(6), knowingly making any false statement material to the lawfulness of the sale of a firearm. Jaelyn SMITH purchased Firearm Three from Action Impact on December 11, 2020. On the ATF Form 4473, he falsely attested that he was the actual buyer when, in fact, he sold the firearm SA Rees.

52. Probable cause exists that Troy LOWERY violated 18 U.S.C. § 922(g)(1), felon in possession of a firearm, when he provided Firearm One to Kenneth SMITH to sell to an undercover law enforcement officer.

Respectfully submitted,

Danielle Stefanovski
Danielle Stefanovski, Special Agent
Bureau of Alcohol, Tobacco,
Firearms and Explosives

Sworn to before me and signed in my
presence and/or by reliable electronic means.

Elizabeth A. Stafford
HON. ELIZABETH A. STAFFORD
UNITED STATES MAGISTRATE JUDGE

Date: January 12, 2021